

INTERTIE AGREEMENT

This Intertie Agreement ("**Agreement**"), dated as of July 12, 2008, is between Eagle Water Company, Inc., an Idaho corporation ("**EWC**") and the City of Eagle, Idaho, an Idaho municipal corporation ("**City**").

Recitals

- A. City recently constructed and owns an approximate one million gallon water storage tank (the "**Storage Tank**").
- B. EWC owns and conducts a water utility supply and distribution business ("**Water System**") in and around Eagle, Idaho. EWC has water distribution lines in the vicinity of the Storage Tank and desires to temporarily connect such distribution lines to the Storage Tank in order to satisfy certain regulatory requirements for fire protection service to its customers.
- C. EWC intends to use the Intertie as a temporary measure until it completes a new well and DEQ determines the Intertie is no longer needed to meet regulatory requirements.

The parties agree as follows:

Agreement

1. **Water Storage Connection.** City hereby agrees that immediately upon the execution of this Agreement, City will allow EWC to construct, at EWC's sole expense, a connection and two manually-controlled gate valves with a meter spool for a future meter ("**Intertie**") between EWC's existing main distribution lines and the Storage Tank based upon engineering plans previously submitted by the City to and approved by the Idaho Department of Environmental Quality ("**DEQ**"). City shall have the right to approve the location and manner of constructing such Intertie and shall do so no later than 24 hours after EWC identifies its preferred location for the intertie. EWC shall ensure that all work is performed in a workmanlike manner and in compliance with all applicable codes and regulations. City makes no representations or warranties, express or implied, concerning the Intertie or any benefits to be derived by EWC therefrom. The City shall own the Intertie infrastructure save and except for the 12-inch Intertie tee and the attached 12-inch gate valve.
2. **Limitations On Use.** The parties agree that the sole purpose of the Intertie is to provide redundant fire flow protection capacity to EWC and is not intended to be a source of water for EWC's normal operating requirements.
3. **Payment.** In consideration of the City entering into this Agreement and allowing EWC to connect to the Storage Tank, EWC agrees to compensate the City as follows:

3.1. Lease of Water Rights. EWC agrees to grant the City the permanent Right of First Refusal to lease up to ten (10) cubic feet of water per second of certain municipal water rights currently owned by EWC, provided such water rights are not necessary to maintain the integrity of EWC's Water System, including compliance with all regulatory requirements and EWC engineering plans. This Right of First Refusal shall be permanent and shall survive any termination or other modification of this Agreement, save and except for a termination by the City other than for a non-cured default by EWC per Section 7, below.

3.2. Cash Payment. In addition, EWC shall pay City a fee for the connection to the Storage Tank of \$10,000.00 per month commencing on the date the interconnection is completed and approved by the Idaho Department of Environmental Quality (DEQ).

4. Duration. This Agreement shall commence upon acceptance by the City of Eagle and completion of the Intertie that is the subject of this Agreement ("Commencement"), and the Intertie Lease shall continue month-to-month so long as the Intertie connection is needed by EWC in its sole discretion. If the Intertie continues past 18 months from the Commencement date, the Intertie Lease Cash Payment shall increase five percent (5%) and every 18 months thereafter. The parties may mutually agree, in writing, to extend or modify this Agreement.

5. Moratorium. At EWC's reasonable request, City agrees to cooperate with EWC to assist EWC in its efforts to satisfy the conditions set forth in the current DEQ Consent Order establishing a moratorium on new connections in EWC's service territory and to cause the moratorium to be terminated. This Section 5 shall not require City to expend any funds or take any actions that it is not lawfully permitted to take. EWC shall reimburse the City for any costs incurred by the City related to this Section 5, provided the same have been pre-approved by EWC in writing.

6. Right of First Refusal. If EWC determines to sell or convey all or any part of its Water System, which shall be deemed to include, but not be limited to, water rights, wells and other infrastructure, and receives a bona fide offer for this Water System, before making any agreement to sell all or any portion of the Water System, EWC shall give notice to City stating EWC's desire to sell and the amount and terms of such offer in detail. City shall have the exclusive right for 30 days after receiving such notice to provide Notice of Intent to Purchase the Water System or portion thereof to which such bona fide offer refers at the amount of said offer; provided, that if the third party offer is for a consideration other than cash, the City shall have the right to pay the fair market value of such consideration in cash. Upon delivery of the Notice of Intent to Purchase, the City shall hold a revenue bond election for the purpose of securing voter approval of the purchase at the next available election date and/or utilize City funds directly available in a capital account, enterprise fund, general fund, or other readily available City fund or account to complete the purchase. For the purpose of this Section 6, "Next Available Election Date" shall mean the earliest possible election date based on the time required by law for legal notice of such an election and for the conduct of any required public hearings. If the bond is approved at said election, the City shall proceed in good faith to secure bonds to pay the purchase price ("Finance") as expeditiously as possible. Closing of the transaction between the City and EWC that is the subject of this Section 6 shall not extend more than 180 days from the date of the revenue bond election, or if the election is challenged in a legal proceeding, the

Closing shall occur no more than 90 days after final resolution of any such legal challenge. In the event that a revenue bond election is not required because the City has the necessary funds directly available in a capital account, enterprise fund, general fund, or other readily available City fund or account to finance the transaction in lieu of holding a revenue bond election, then the Closing of the transaction between the City and EWC that is the subject of this Section 6 shall occur no later than 60 days after the City provides EWC with its Notice of Intent to Purchase. For purposes of this Section 6, this Right of First Refusal applies solely to an "EWC Change of Control Transaction", which means one or a series of transactions in which (i) all or substantially all of EWC's Water System is sold to a third party, or (ii) there is a stock sale, merger, consolidation or similar transaction as a result of which said third party owns a majority of the outstanding voting and outstanding capital stock of EWC or any successor owner of EWC. This Right of First Refusal shall be permanent and shall survive any termination or other modification of this Agreement, save and except for a termination by the City other than for a non-cured default by EWC per Section 7, below.

7. **Termination.** EWC or the City shall have the right to terminate the Intertie connection upon 30 days prior written notice to the other party. In the event the City terminates the Intertie connection for any reason other than a non-cured default by EWC under Section 10 of this Agreement, then the Rights of First Refusal in Sections 3 and 6 of this Agreement shall likewise terminate.

8. **Authority.** Each individual executing this Agreement below on behalf of a party represents and warrants to the other party that the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate or municipal action by such party, that such individual is duly authorized to execute and deliver this Agreement on behalf of such party, and that this Agreement is a legal and valid obligation of such party, enforceable against such party in accordance with its terms.

9. **Force Majeure.** Except for obligations to make payment, nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts, orders or restrictions, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.

10. **Default and Remedies.**

10.1. **Default.** Each of the following events shall constitute an event of default:

10.1.1. EWC fails to make, on or before the date which it is due, any payment to be made to the City pursuant to the provisions of this Agreement; or

10.1.2. Either party materially breaches this Agreement.

10.2. **Remedies.** If any default shall occur, the non-defaulting party shall give the defaulting party notice of default. Such default must be cured within fifteen (15) days of the Notice of Default unless such default is curable but cannot be reasonably cured within ten (10) days after giving the Notice of Default and the defaulting party commences within such ten (10) day period to cure such default and prosecutes the same to conclusion with reasonable diligence.

The foregoing remedy shall be in addition to and shall not exclude any other remedy available to the parties under applicable law.

11. **Attorneys Fees.** In the event an arbitration, suit or action is brought by any party under this Agreement to enforce any of its terms, or in any appeal therefrom, it is agreed that the prevailing party shall be entitled to reasonable attorney fees to be fixed by the arbitrator, or court of applicable jurisdiction.

12. **Notices.** All notices or other communications required or permitted hereunder, including notices to Mortgagees, shall, unless otherwise provided herein, be in writing, shall be personally delivered, delivered by reputable overnight courier, or sent by registered or certified mail, return receipt requested, and postage prepaid, addressed to the parties at the following addresses:

if to the City: City of Eagle
Office of the City Clerk
660 East Civic Lane
Eagle, ID 83616

If to Eagle Water: Eagle Water Company, Inc.
172 West State Street
Eagle, ID 83616

With a copy to: Molly O'Leary
Richardson & O'Leary, PLLC
P.O. Box 7218
Boise, Idaho 83707

Notices personally delivered shall be deemed given the day so delivered. Notices given by overnight courier shall be deemed given on the first business day following the mailing date. Notices mailed as provided herein shall be deemed given on the third business day following the mailing date. Notice of change of address shall be given by written notice in a manner detailed in this Section 12.

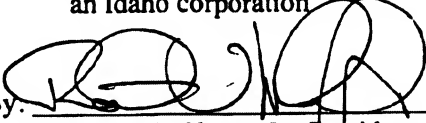
13. **Governing Law.** The parties intend that this contract shall be governed by and construed in accordance with the laws of the State of Idaho, without regard to choice of law rules.

14. **Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute part of the original document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

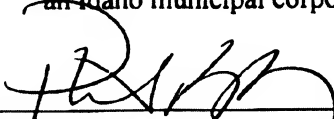
EWC:

EAGLE WATER COMPANY,
an Idaho corporation

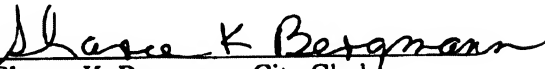
By: 
Robert V. DeShazo, Jr., President

City:

CITY OF EAGLE, IDAHO
an Idaho municipal corporation

By: 
Phil Bandy, Mayor

ATTEST:

By: 
Sharon K. Bergmann, City Clerk

